IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SUMMONS FOR JUDGMENT NO.487 OF 2004
IN
SUMMARY SUIT NO.463 OF 2004

Dwarkesh P. Trivedi ....Plaintiff
V/s.
Shreeji Synthetics & Ors. ....Defendants

WITH
SUMMONS FOR JUDGMENT NO.489 OF 2004
IN
SUMMARY SUIT NO.464 OF 2004

Daxaben P. Trivedi ....Plaintiff
V/s.
Sanghvi & Sanghvi & Ors. ....Defendants

WITH
SUMMONS FOR JUDGMENT NO.518 OF 2004
IN
SUMMARY SUIT NO.293 OF 2004

Prabodh S. Trivedi ....Plaintiff
V/s.
Seven Brothers & Others ....Defendants

WITH
SUMMONS FOR JUDGMENT NO.519 OF 2004
IN
SUMMARY SUIT NO.294 OF 2004

Naliniben Pariwar Trust ....Plaintiff
V/s.
Sanghavi Silk Mills & Ors. ....Defendants

WITH
SUMMONS FOR JUDGMENT NO.415 OF 2004
IN
SUMMARY SUIT NO.841 OF 2004

Vishal P. Trivedi ....Plaintiff
V/s.
Sanghavi Fabrics & Others ....Defendants

Mr.Sanjay Jain with Mr.P.B. Jain i/b. Legal Juris for the Plaintiff.

Mr.Prakash Davi i/b. N.N. Vaishnava & co. for the Defendants.

CORAM : S.J. VAZIFDAR, J.
DATED : 23RD AUGUST, 2005.

P.C. :

1. It is agreed between the parties that the decision in Summary Suit No.463 of 2004 will govern the decision in the remaining matters. By consent, the Summons for Judgment No.415 of 2004 in Summary Suit No.841 of 2004 was placed on board and called out for final hearing.

2. I shall, therefore, refer to the facts in Summary Suit NO.463 of 2004 alone.

3. The suit is filed to recover an amount of Rs.4,26,730/- and Rs.58,462/- with interest based on two promissory notes. The promissory notes dated 1-4-1998 and 2-7-1998 are in the sum of Rs.1,65,000/- and Rs.50,000/- respectively. The rate of interest mentioned in the promissory note is 18% per annum. The execution of the promissory notes is not denied. Part payments are not denied. That the balance amount

has not been repaid is not denied.

4. The only defence is that the suit is barred by the law of limitation. The plaintiff relied upon a letter dated 14-2-2001 addressed by the defendants to the constituted attorney of the plaintiff Mr.P.S. Trivedi. The said constituted attorney is a relative of the plaintiffs in all the suits. He was the chartered accountant of the defendants firm. The said letter dated 14-2-2001 which was written during the subsistence of the period of limitation reads as under :-

> "You and other parties were paid 13.5% by the mumbai Textile merchant's mahajan and we have also paid in cash or by cheque, on behalf of seven brothers and our sister concern. We required some time to clear the outstanding amount payable by us to you.
>
> Hope you will consider our financial difficulties and give us some time to pay your dues."

5. Faced with this, it is contended that the signature is forged. It is however admitted that the letter is written on the Defendants stationary. It is, however, submitted that blank letter heads were kept with P.S. Trivedi, as he was their chartered accountant. It is difficult to accept this submission.

6. Firstly, it is quiet natural for the defendants to have addressed a letter as the amounts had been outstanding since 1998. Even according to the defendants letter, part payment in February, 2000 had been made. The signature appears to be identical to the one on the admitted documents, including the vakalatnama and the defendants letter to police authorities (annexure ‘1’ to the affidavit in reply).

7. Once this letter is accepted, the plaintiffs suit is within time. There is no other defence to the suit.

7. In the circumstances, all the Summons for Judgment are made absolute and the suits are decreed as prayed with costs.

8. Refund as per rules.